

Appl. No.: 10/716,236
Amendment dated December 12, 2005
Reply to Office Action of September 12, 2005

REMARKS/ARGUMENTS

In view of the following remarks, reexamination and reconsideration of this application, withdrawal of the rejections, and formal notification of the allowability of all claims as presented are earnestly solicited. Claims 1-23 are pending. Examiner has further indicated that Claims 8 and 16 contain allowable subject matter. In response to the Office Action, independent Claims 1, 9, and 17 have been amended. The amendments to the claims find support throughout the Specification and the Drawings, and no new matter has been added. Accordingly, it is believed that the pending claims now further define patentable subject matter over the references cited by the Examiner and notice to such effect is requested at the Examiner's earliest convenience.

Claim Rejections – 35 U.S.C. §102

Examiner has rejected Claims 1-5, 9-13, and 17-21 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,018,655 to Bartle ("Bartle"). In response, independent Claims 1, 9, and 17 have been amended to recite the recitations of Claims 2, 10, and 18, depending respectively therefrom, to more clearly indicate patentable aspects of the present invention. As a result of the amendments to the independent claims, Claims 2, 10, and 18 have been cancelled. The new recitations of claims 1, 9, and 17 were previously recited in Claims 2, 10, and 18, respectively. Accordingly, no new matter has been added.

More particularly, Claim 1 has been amended to recite that the user interface is further capable of receiving at least one threshold. Furthermore, in the amended Claim 1, the recited controller is not only capable of counting a plurality of service increments and producing a result based upon the count, but Claim 1 has also been amended to recite that the controller is capable of "converting at least one of the threshold and the result to a common unit of measurement." Thus, the controller may compare the result to the at least one threshold even in circumstances wherein the threshold received by the user interface has a unit of measurement that differs from the count result produced by the controller. Claims 9 and 17 have also been amended in a similar manner to include the recitations of Claims 10 and 18, respectively such that the recited method and computer program product claims now recite steps for "converting at least one of the threshold and the result to a common unit of measurement."

Thus, Claims 1, 9, and 17 now recite a system, method, and computer program product, respectively, capable of converting the threshold received by the user interface to a unit of measurement that is more readily comparable to a service increment that may be easily counted by the recited controller. Therefore, Claims 1, 9, and 17 now more particularly recite that embodiments of

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the present invention are capable of converting a user-friendly threshold unit of measurement (such as dollars spent for air time, for example) into a unit of measurement that is more readily comparable to a result produced by the controllers count of service increments (which may include, for example, data amounts expressed in kilobytes or other measures of data and/or bandwidth).

In rejecting Claim 2 under 35 U.S.C. §102(b), Examiner has stated that Bartle teaches a terminal, "wherein the user interface is capable of receiving at least one threshold, and wherein the controller is further capable of converting at least one of the threshold and the result to a common unit of measurement." However, the Applicant respectfully submits that Bartle does not teach a controller that is capable of converting at least one of the threshold and the result to a common unit of measurement, such that the result and threshold may be directly compared. In contrast, Bartle discloses that the control system (24) of the disclosed cellular telephone (10) continuously monitors one of an error count, error rate, and/or a signal strength and compares these values to corresponding pre-defined thresholds, such as 1 in 20 "insufficient quality frame errors" (at column 6, line 47) and a -15 dB Ec/No "pilot strength threshold" (at column 8, lines 50-51). Thus, Bartle does not disclose, teach, or suggest the receipt of thresholds and the subsequent conversion of at least one of the threshold and the count result to a common unit of measurement. Instead, the system and method of Bartle relies on a pre-defined threshold (having a corresponding pre-defined unit of measurement) in order to properly compare the threshold to a count and/or signal strength value. Therefore, the method and device disclosed by Bartle would be ill-suited for receiving a threshold defined and more easily understood by an average user (expressed for example, in a dollar amount), and converting such a threshold to a unit of measurement that may be more directly comparable to a counted service increment (such as data in kilobytes and/or minutes of air time).

The Applicant respectfully submits that for a rejection to be proper under 35 U.S.C. §102(b), the cited reference must "teach every element of the [rejected] claim." See MPEP §2131. In contrast, and as outlined above, Bartle teaches away from the receipt of thresholds and the subsequent conversion of at least one of the threshold and the count result to a common unit of measurement, as now recited in amended Claims 1, 9, and 17.

Thus, for at least the reasons stated above, Applicant respectfully submits that the recitations of Claims 2, 10, and 18 (which are now recited as part of amended Claims 1, 9, and 17, respectively) are patentably distinct from Bartle. In addition, the pending claims 3-5, 11-13, and 19-21, depend from amended Claims 1, 9, and 17 and are patentably distinct from Bartle for at least the same reasons stated above.

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Claim Rejections – 35 U.S.C. §103

Claims 6, 14, and 22

Examiner has rejected Claims 6, 14, and 22 under 35 U.S.C. §103(a) as being obvious over Bartle. Examiner has further taken Official Notice that “producing a different audible tone when the output reaches each of the respective thresholds are known in the art.” The Applicant respectfully submits that Claims 6, 14, and 22, which depend from amended Claims 1, 9, and 17, respectively, are patentable for at least the reasons stated above with respect to Claims 1, 9, and 17. In this regard, Bartle fails to teach or suggest the receipt of thresholds and the subsequent conversion of at least one of the threshold and the count result to a common unit of measurement, as recited by amended independent Claims 1, 9 and 17 such that any combination of Bartle and Official Notice taken by the Examiner with regard to the direction of the user interface to produce different audible tones upon reaching different thresholds, likewise fails to teach or suggest amended independent Claims 1, 9, and 17 as well as the claims that depend therefrom.

Claims 7, 15, and 23

Examiner has rejected Claims 7, 15, and 23 under 35 U.S.C. §103(a) as being obvious over Bartle in view of U.S. Patent Application No. 2005/0075992 to Garvan (“Garvan”). The Examiner states that “Bartle fails to teach a unit of measurement selected from a unit of time,” and that “Garvin teaches a unit of measurement selected from a unit of time.” The Applicant respectfully submits that Claims 7, 15, and 23, which depend from amended Claims 1, 9, and 17, respectively, are patentable for at least the reasons stated above with respect to Claims 1, 9, and 17. In this regard, Bartle fails to teach or suggest the receipt of thresholds and the subsequent conversion of at least one of the threshold and the count result to a common unit of measurement, as recited by amended independent Claims 1, 9 and 17 such that any combination of Bartle and Garvan taken by the Examiner with regard to specific units of measurement, likewise fails to teach or suggest the receipt of thresholds and the conversion of at least one of the threshold and the count result to a common unit of measurement, as recited in amended independent Claims 1, 9, and 17 as well as the claims that depend therefrom.

CONCLUSION

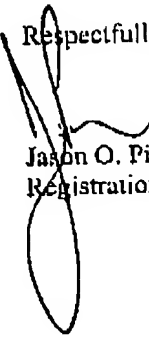
In conclusion, Bartle and Garvan alone or in combination, do not teach, suggest, or provide motivation for the embodiments of the present invention, as now claimed in Claims 1, 9, 17, and the claims depending therefrom. Accordingly, in view of the above differences between the Applicant's

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invention and the cited reference, the Applicant submits that the present invention, as defined by the pending claims, is patentable over the references cited in the Office Action. As such, for the reasons set forth above, the pending claims are believed to be in condition for immediate allowance and notice to such effect is respectfully requested at the Examiner's earliest opportunity.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR §1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

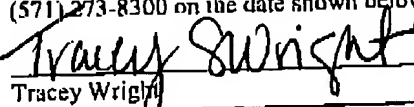
Respectfully submitted,


Jason O. Piché
Registration No. 53,468

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Raleigh Office (919) 862-2200
Fax Raleigh Office (919) 862-2260

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12/12/05
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